

Amendment No. 1161

Assembly Amendment to Senate Bill No. 123 Second Reprint

(BDR 19-462)

Proposed by: Assembly Committee on Ways and Means**Amends:** Summary: No Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted ☐ Lost ☐	_____	Adopted ☐ Lost ☐	_____
Concurred In ☐ Not ☐	_____	Concurred In ☐ Not ☐	_____
Receded ☐ Not ☐	_____	Receded ☐ Not ☐	_____

EXPLANATION: Matter in (1) **blue bold italics** is new language in the original bill; (2) **green bold italic underlining** is new language proposed in this amendment; (3) **red strikethrough** is deleted language in the original bill; (4) **purple double strikethrough** is language proposed to be deleted in this amendment; (5) **orange double underlining** is deleted language in the original bill that is proposed to be retained in this amendment; and (6) **green bold** is newly added transitory language.

Section 3 of S.B. No. 123 is hereby amended as follows:

Sec. 3. ~~*[1. Except as otherwise provided in subsection 2, records of a nongovernmental entity that are directly related to the administration, management or regulation of an activity, program, institution or facility by the nongovernmental entity for or on behalf of a governmental entity are public records that must be open for inspection and copying.*~~

~~*—2. This section does not apply to the financial or other proprietary records of the nongovernmental entity.]*~~ **(Deleted by amendment.)**

Section 7 of S.B. No. 123 is hereby amended as follows:

Sec. 7. ~~*[NRS 239.005 is hereby amended to read as follows:*~~

~~*—239.005 As used in this chapter, unless the context otherwise requires:*~~

KMG



Date: 6/4/2007

S.B. No. 123—Makes various changes to provisions relating to public records. (BDR 19-462)



~~1. "Actual cost" means the direct cost related to the reproduction of a public record. The term does not include a cost that a governmental entity incurs regardless of whether or not a person requests a copy of a particular public record.~~

~~2. "Committee" means the Committee to Approve Schedules for the Retention and Disposition of Official State Records.~~

~~3. "Division" means the Division of State Library and Archives of the Department of Cultural Affairs.~~

~~4. "Governmental entity" means:~~

~~(a) An elected or appointed officer of this State or of a political subdivision of this State;~~

~~(b) An institution, board, commission, bureau, council, department, division, authority or other unit of government of this State or of a political subdivision of this State;~~

~~(c) A university foundation, as defined in NRS 396.405; [or]~~

~~(d) An educational foundation, as defined in NRS 388.750, to the extent that the foundation is dedicated to the assistance of public schools [.] ; or~~

~~(e) Any other person or nongovernmental entity that administers, manages or regulates an activity, program, institution or facility for or on behalf of a governmental entity described in paragraphs (a) to (d), inclusive, of this subsection.] (Deleted by amendment.)~~

Section 218 of S.B. No. 123 is hereby amended as follows:

Sec. 218. 1. Except as otherwise provided in this subsection, for the purposes of section 6 of this act, a person may apply to a district court on or after October 1, 2007, for an order directing a governmental entity to allow the person to inspect or copy a public book or record, or a part thereof, if the public book or record has been in the legal custody or control of a

1 governmental entity for a period of 30 years or more on the date of the application. A person
2 may apply to the district court on or after October 1, 2007, for an order directing a governmental
3 entity to allow the person to inspect or copy a public book or record that pertains to a natural
4 person if, on the date of the application, the public book or record has been in the legal custody
5 or control of a governmental entity for a period of 30 years or more or the natural person has
6 died, whichever is later.

7 2. As used in this section, "governmental entity" has the meaning ascribed to it in NRS
8 239.005 . ~~[-as amended by section 7 of this act.]~~

The Title of S.B. No. 123 is hereby amended as follows:

AN ACT relating to public records; ~~[-providing that certain records of a nongovernmental entity
are public books or records under certain circumstances;]~~ requiring a governmental
entity to take certain action in response to a written request to inspect or copy a
public book or record; making various changes regarding the confidentiality of
records; authorizing a person to apply to a district court for an order to allow the
person to inspect or copy certain confidential public books or records that have
been in the custody of a governmental entity for a certain period; and providing
other matters properly relating thereto.

If this amendment is adopted, the Legislative Counsel's Digest will be changed as follows:**Legislative Counsel's Digest:**

10 Under existing law, all public books and records of a governmental entity, the contents of
11 which are not otherwise declared by law to be confidential or which the governmental entity
12 determines pursuant to a balancing test must not be disclosed, must be open at all times during

1 office hours for inspection and copying. (NRS 239.010; *Donrey v. Bradshaw*, 106 Nev. 630
2 (1990))

3 **Section 4** of this bill provides that if a governmental entity receives a written request to
4 inspect or copy a public book or record, the governmental entity must, within 5 business days
5 after the date on which the person who has legal custody or control of the book or record has
6 received the request: (1) allow the requester to inspect or copy the public book or record; (2) if
7 the governmental entity does not have legal custody or control of the public book or record,
8 notify the requester of that fact and where, if known, the public book or record is located; (3) if
9 the governmental entity cannot make the public book or record available within 5 business days,
10 notify the requester of the date and time when the book or record will be available; or (4) if the
11 public book or record is confidential, notify the requester of that fact in writing, including a
12 citation to the legal authority that makes the book or record confidential.

13 With certain exceptions, **section 6** of this bill provides that, notwithstanding any provision of
14 law that has declared a public book or record, or a part thereof, to be confidential, once a public
15 book or record has been in the legal custody or control of one or more governmental entities for a
16 period of at least 30 years, a person may apply to the appropriate district court for an order
17 allowing him to inspect or copy the public book or record. If the public book or record pertains
18 to a natural person, a person may not apply for such a court order until 30 years after the book or
19 record has been in the legal custody or control of a governmental entity or the death of the person
20 to whom the book or record pertains, whichever is later. **Section 218** of this bill clarifies that a
21 person may apply for such an order on or after October 1, 2007, the effective date of the bill, to
22 inspect or copy public books or records that already meet the conditions set forth in **section 6**.

1 **Section 5** of this bill provides that in any judicial or administrative proceeding in which the
2 confidentiality of a public book or record is at issue and the governmental entity that has legal
3 custody or control of the public book or record asserts that the public book or record is
4 confidential, the governmental entity has the burden of proving such confidentiality.

5 ~~[Sections 3 and 7 of this bill provide that although a nongovernmental entity which performs~~
6 ~~certain functions for or on behalf of a governmental entity is considered a governmental entity~~
7 ~~for the purposes of Nevada's public records law (chapter 239 of NRS), the records of a~~
8 ~~nongovernmental entity that are directly related to the administration, management or regulation~~
9 ~~of an activity, program, institution or facility for or on behalf of a governmental entity are public~~
10 ~~records that must be open for inspection and copying. Section 3 specifically excludes financial or~~
11 ~~other proprietary records of a nongovernmental entity from this requirement.]~~

12 **Section 8** of this bill provides that a governmental entity shall not deny a request to inspect or
13 copy a public book or record because the public book or record contains information that is
14 confidential if the governmental entity can redact the confidential information.